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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:

Confirmation No.: 1056

T. Gordon McMahon

Serial No.: 10/588,840

International Application No. PCT/US05/04518

Art Unit: To Be Assigned

Filed: August 8, 2006

Examiner: To Be Assigned

For: *Plant Nutrient Reduction System*

Attorney Docket No: 044108.001000

PETITION UNDER 37 C.F.R. § 1.47(a)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Petition is submitted pursuant to 37 C.F.R. §1.47(a) and forms a portion of Applicants' concurrently filed response to the Notification of Missing Requirements, dated April 5, 2007. The joint inventors Gordon T. McMahon respectfully petition that the U.S. Patent and Trademark Office accept the subject application without the signature of joint inventor Paul C. Porter. The above U.S. Patent Application No. 10/588,840 was filed on August 8, 2006 for which there is believed to be two inventors: 1) Gordon T. McMahon 2) Paul C. Porter. All inventors except Mr. Paul C. Porter have executed a Declaration pursuant to 37 C.F.R. §1.63, a copy of which is attached to the response. Applicant believes that Mr. Paul C. Porter's conduct constitutes a refusal to execute the Declaration. Submitted with this petition is a declaration by Gordon T. McMahon, attesting to the facts surrounding Mr. Porter's refusal to execute the Declaration. Accordingly, it is requested that this Petition be granted to allow the Declaration to be made by T Gordon McMahon on behalf of the non-signing inventor Mr. Porter.

A petition under 37 C.F.R. §1.47(a) requires (i) proof that the non-signing inventor has either refused to sign or is unavailable, (ii) the last known address of the non-signing inventor, and (iii) payment of the petition fee under 37 C.F.R. §1.17(g). Each of these requirements has been satisfied and is discussed below.

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Attorney Docket Number 044108.001000
Application Number 10/588,840

A. Facts Relating to Inventor's Unavailability

The following facts evidencing Mr. Paul C. Porter's unavailability to sign the Declaration are supported by the aforementioned declaration of Mr. Adam C. Brink, an employee of The Clorox Company, attached hereto as Exhibits 1 and 2 and referred to as the Brink "Declaration" respectively. The following is a summary of the pertinent facts recited in this Declaration.

Adam C. Brink is an employee of The Clorox Company. On June 7, 2007, Adam Brink tried to contact Paul C. Porter and Cheryl Porter (ex-wife) at a separate telephone number. Neither telephone number was in service at this time.

On June 18, 2007, Adam Brink called Gordon T. McMahon (named inventor) who at time provided updated telephone numbers for Paul C. Porter. On June 19, 2007, Adam Brink left a telephone message for Paul C. Porter's ex-wife Cheryl Porter on both her home and cell phone numbers. Neither phone call was returned. On June 29, 2007, Adam Brink again left telephone messages on both Cheryl Porter's home and cell phone numbers and to date no return calls have been made duplicated his efforts of June 19, 2007 and ended up with the same results.

Based on the foregoing, it is evident that Mr. Paul C. Porter has received a copy of the subject application and the Declaration and is refusing to execute and return the Declaration.

B. Statement of Last Known Address

Mr. Porter's last known address is 41 ½ North Roscoe Boulevard, Ponte Vedra, Florida 32082.

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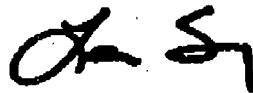
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C. Conclusion and Payment of Fee

Applicants believe that Mr. Paul C. Porter's conduct constitutes a refusal to sign the Declaration, as evidenced by the above statement of facts and the Declaration of Mr. Adam C. Brink, attached hereto. The Commissioner is hereby authorized to charge the requisite fee pursuant to 37 C.F.R. § 1.17(g) for this Petition and any additional fees required for this Petition to Nixon Peabody LLP Deposit Account No. 19-2380. An additional copy of this sheet is enclosed for accounting purposes. Accordingly, all of the requirements for this Petition under 37 C.F.R. §1.47(a) have been satisfied and the grant of this Petition is respectfully requested.

Date: September 18, 2007

Respectfully submitted,



By:

Lawrence M. Sung
Registration No. 38,330

Attachment: Exhibit 1

NIXON PEABODY LLP
Suite 900, 401 9th Street, N.W.
Washington, D.C. 20004-2128
(202) 585-8000

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: T. Gordon McMahon

Confirmation No.: 1056

Serial No.: 10/588,840

Art Unit: To Be Assigned

International Application No.: PCT/US05/04518

Filed: August 8, 2006

Examiner: To be assigned

For: *PLANT NUTRIENT REDUCTION SYSTEM*

Attorney Docket No: 044108.001000

**EXHIBIT 1: DECLARATION OF ADAM C. BRINK
IN SUPPORT OF PETITION UNDER 37 C.F.R. §1.47(a)**

Commissioner for Patents
U.S. Patent and Trademark Office
Randolph Building – Customer Service Window
401 Dulany Street
Alexandria, Virginia 22314

Sir:

I, Adam C. Brink, declare that:

1. I am employed by The Clorox Company located at 1221 Broadway, Oakland, California, 94612. The Clorox Company is the current owner of the intellectual property described in the subject application.

2. On June 7, 2007, I attempted to contact Paul C. Porter, one of the named inventors of the subject application, via telephone. I also attempted to contact Mr. Porter's ex-wife, Ms. Cheryl Porter, at a separate telephone number. Neither telephone number was in service.

3. On June 18, 2007, Gordon McMahon, the other named inventor of the subject application, provided me with updated telephone numbers for Paul C. Porter and Cheryl Porter.

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4. On June 19, 2007, I placed a telephone call to the newly provided number for Paul Porter. There was no answer; however the outgoing message identified the phone number as belonging to Paul Porter, so I left a message. I also telephoned the home and cell phone numbers of Cheryl Porter. Again, there was no answer at either number, however both outgoing messages identified the phone numbers as belonging to Cheryl Porter, so I left messages. None of my messages were returned.

5. On June 29, 2007, I again attempted to reach both Paul C. Porter and Cheryl Porter and left messages at each telephone number provided by Gordon McMahon. None of my calls were returned.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. I further declare that all statements made by me herein are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that any willful false statements may jeopardize the validity of any patent resulting therefrom.

Respectfully submitted,

Date: August 30, 2007

By: 

Adam C. Brink
The Clorox Company
1221 Broadway
Oakland, CA 94612